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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,638	12/19/2001	John Bankier	E003-1101US0	5044
48789 7590 05/28/2008 LAW OFFICES OF BARRY N. YOUNG 200 PAGE MILL ROAD SUITE 102 PALO ALTO, CA 94306				
EXAMINER				
TRUONG, LAN DAI T				
ART UNIT		PAPER NUMBER		
2152				
MAIL DATE		DELIVERY MODE		
05/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/029,638

Applicant(s)

BANKIER ET AL.

Examiner

LAN-DAI Thi TRUONG

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-17 and 19-56.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146

(A) Regarding applicant's argument with respect to the cited references do not teach:

- "determines the actual state of an electronic commerce transaction at a failure of electronic commerce transaction"
- "selects a recovery action based upon that actual state; and
- "provides the expected response to a client to mask the failure from the client"

Reply to the arguments: the arguments are not persuasive.

the feature of "determines the actual state of an electronic commerce transaction at a failure of electronic commerce transaction" is clearly taught by Frolund, such as, Frolund teaches techniques of using heartbeat, ping or time-out to determine any failure occurs in a transaction: Frolund, figure 3, step 64; figure 4, step 82; column 6, lines 49-54).

the feature of "selects a recovery action based upon that actual state" is clearly taught by Frolund, such as, Frolund teaches a recovery action will be taken in response to recognized failure: (Frolund, column7, 31-67; column 8, lines 14-32).

the feature of "provides the expected response to a client to mask the failure from the client" is clearly taught by Judd, such as, retransmitting expected data frame to replace the previous error data frame which was discarded for recovering faulty link purpose (Judd, column 2, lines 25-67).

(B) Regarding applicant's arguments with respect to one of Lin, Frolund or Judd disclose method of:

- detecting that a failure has occurred with respect to the electronic commerce transaction;
- determining whether an outcome of the electronic commerce transaction in relation to the request message has failed, and the actual state of the electronic commerce transaction at the failure;
- selecting an appropriate recovery action to recover from the failure based upon said actual state;
- transmitting a response message to the client accordance with the recovery action, wherein the response message masks the failure from the client by providing an expected response to the request message from the client.

Reply to the arguments: the arguments are not persuasive.

the feature of "detecting that a failure has occurred with respect to the electronic commerce transaction" is clearly taught by Frolund, such as, Frolund teaches detecting electronic commerce transaction failures (e.g. failure of reservation/ or car rentals/ finance transactions...etc.), (abstract, lines 12-15; figure 4, steps 88 and 82; column 3, lines 47-52; column 5, lines 48-51; column 6, lines 38-40; column7, lines 1-10, 31-54).

the feature of "selecting an appropriate recovery action to recover from the failure based upon said actual state" is clearly taught by Frolund, such as, a recovery action will be taken in response to recognized failure: (Frolund, column7, 31-67; column 8, lines 14-32).

the feature of "transmitting a response message to the client accordance with the recovery action, wherein the response message masks the failure from the client by providing an expected response to the request message from the client" is clearly taught by combination of Frolund and Judd, such as, Frolund teaches masking communication failures (Frolund, column 3, lines 63-64) and a recovery action will be taken in response to recognized failure (Frolund, column7, 31-67; column 8, lines 14-32); while Judd teaches retransmitting expected data frame to replace the previous error data frame which was discarded for recovering faulty link purpose, see (Judd, column 2, lines 25-67).

the feature of "determining whether an outcome of the electronic commerce transaction in relation to the request message has failed, and the actual state of the electronic commerce transaction at the failure" is clearly taught by Frolund, such as, capabilities of detecting if transaction progresses are success/ or fail to provide recovery actions to cover the failures (Frolund, abstract, figure 3, items 216, 222; column 3, lines 37-52, 63-64; column 6, lines 38-48, lines 60-67; column7, lines 1-10, 31-54) and indicating if a failure occurs in halfway-transaction (Frolund, figure 3, step 64; figure 4, step 82; column 6, lines 49-54).

(C) Regarding applicant's arguments with respect to Lin does not disclose determining the actual state of an electronic commerce transaction at the failure.

Reply to the arguments: the arguments are not persuasive.

This feature was rejected under Frolund instead of Lin, please see the previous rejection (page 4) and section (A) above for details.

(D) Regarding applicant's arguments with respect to Frolund does not disclose steps of:

"determine the actual state of an electronic commerce transaction at a failure, does not select a recovery action based upon the actual state at the failure, and does not mask the failure from a client by providing an expected response to the request message from the client"

Reply to the arguments the arguments are not persuasive.

those features are clearly taught by combination of Frolund and Judd, please see section (A) above for details.

(E) Regarding applicant's arguments with respect to Frolund fails to teach feature of:

" a recovery message that masks the failure from the client by providing an expected response message to the request message to the client"

Reply to the arguments:

this feature clearly taught by combination of Frolund and Judd, please see section (B) above for details.

(F) Regarding applicant's arguments with respect to Frolund fails to teach feature of: masks the failure.

Reply to the arguments:

Frolund clearly teaches masking communication failures (Frolund, column 3, lines 63-64).

(G) Regarding applicant's arguments with respect to Judd does not teach feature of: masks the failure from a client by providing an expected response to the client's request.

Reply to the arguments: the arguments are not persuasive.

this feature is clearly taught by combination of Frolund and Judd, such as, Frolund teaches masking communication failures (Frolund, column 3, lines 63-64); while Judd teaches retransmitting expected data frame to replace the previous error data frame which was discarded for recovering faulty link purpose, see (Judd, column 2, lines 25-67).

(H) Regarding applicant's argument with respect to Lin does not disclose the eTA system; establishing communication at an eTA.

Reply to the arguments: the arguments are not persuasive.

Lin discloses communication connections between network users and web servers are established and controlled at a load balancer, so clearly the load balancer shares functionality of an electronic transaction assurance (eTA) as claimed (Lin, figure 2, items 128, 102, 104, 106, 130, 132, and 134; abstract; figure 6; [0027]).

(I) Regarding applicant's argument with respect to Lin's load balancer does not perform transaction monitoring process or a state capture process.

Reply to the arguments: the arguments are not persuasive.

Lin clearly discloses communication sessions between the network users and the web servers are monitored. And session information is sent to/ and stored in a state server as retaining communication sessions records: Lin: [0028], lines 11-15).

(J) Regarding applicant's arguments with respect to the cited references do not disclose feature of "determining the correct outcome, providing a corresponding response to mask a detected failure or logging and reporting.

Reply to the arguments: the arguments are not persuasive.

Frolund discloses detecting if transaction progresses are success or fail to provide recovery actions to cover the failures. It would have been obvious to one ordinary skill in the art to understand that correct outcome should be used as standard for processes of determining if the electronic transactions are success or fail; Frolund further discloses masking communication failures (Frolund, column 3, lines 63-64; figure 3, step 64; figure 4, step 82; column 6, lines 49-54; abstract; figure 3, items 216, 222; column 3, lines 37-52, 63-64; column 6, lines 38-48, lines 60-67; column 7, lines 1-10, 31-54).

(K) Regarding applicant's arguments with respect to the cited references does not disclose adding code to a webpage that records the start and end times of an electronic commerce transaction.

Reply to the arguments: the arguments are not persuasive.

Lin discloses webserver logs during session times (e.g. beginning of session and termination of session) see ([0065]; [0028]; [0046]).

(L) regarding applicant's arguments with respect to the cited references do not teach "preserving the state of a transaction, resuming the transaction from a failure based on the state, and masking the failure by providing an expected response".

Reply to the arguments: the arguments are not persuasive.

Lin clearly discloses feature of "preserving the state of a transaction", such as, Lin teaches communication sessions between the network users and the web servers are monitored and session information is sent to/ and stored in a state server as retaining communication sessions records (Lin, [0028], lines 11-15; [0038]), while Frolund discloses shortcomings from Lin e.g. "resuming the transaction from a failure; masking failure", such as, Frolund teaches steps of indicating whether failure occurs in a transaction (Frolund, figure 3, step 64; figure 4, step 82; column 6, lines 49-54), and masking communication failures (Frolund, column 3, lines 63-64).

(M) regarding applicant's arguments with respect to Barker does not disclose a policy based engine that allows users to define message processing policies and that specify actions to be taken to provide transaction failover.

Reply to the arguments: the arguments are not persuasive.

Barker discloses processes recovery system is accessible and managed by a network administrator, see (column 7, lines 60-67; column 16, lines 1-37; column 1, lines 37-43; column 2, lines 15-21).

(N) regarding applicant's arguments with respect to the cited references (Lin, Kashyap, Barker and Judd) do not disclose failure of e-commerce transaction.

Reply to the arguments: the arguments are not persuasive.

Lin clearly discloses monitoring electronic communication session implemented through a webserver to determine disruption of the session, (Lin, [0026]).

Idt.